



Marc Barreca
U.S. Bankruptcy Court

The court has issued its own Rule 16 order.

UNITED STATES BANKRUPTCY COURT
FOR THE WESTERN DISTRICT OF WASHINGTON

| | | |
|------------------------|---|----------------------------------|
| In re |) | Chapter 7 Proceeding |
| HAYLEY MARIE ROBINSON, |) | |
| <i>Debtor.</i> |) | Bankruptcy Case No. 19-11724-MLB |
| |) | |
| |) | Adv. Proc. No. 19-01105-MLB |
| OSCAR LEE OLIVE, IV. |) | |
| <i>Plaintiff,</i> |) | PRETRIAL ORDER |
| |) | OF DEFENDANT |
| v. |) | [REVISED] |
| |) | |
| HAYLEY MARIE ROBINSON, |) | |
| <i>Defendant.</i> |) | |
| |) | |

I. JURISDICTION

1. The court has jurisdiction of this adversary proceeding pursuant to 28 U.S.C. § 1334, 11 U.S.C. § 727 and 11 U.S.C. § 523.

2. This is a core proceeding under 28 U.S.C. §157(b)(2)(I) and 28 U.S.C. § 157(b)(2)(J).

3. Venue is proper under 28 U.S.C. § 1409(a).

4. The Defendant agrees to Bankruptcy Court jurisdiction and entry of final orders.

II. CLAIMS AND DEFENSES

5. This is an action to determine the dischargeability of a debt pursuant to 11 U.S.C. §

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523(a)(6). Plaintiff alleges Defendant made statements on social media that were knowingly false when made, were intended to harm him, caused him to be discharged from the Marine Corps, and caused him financial and emotional injuries in excess of \$1.5 million.

6. Defendant intends to raise the affirmative defense that any statements she made were true and/or constitute opinions which are protected speech and not actionable under First Amendment to the U.S. Constitution, Section 11, Article I, Section 5 of the Washington Constitution and Article 40 of the Maryland Constitution.

III. FACTS

7. Plaintiff Oscar Lee Olive, IV. ("Plaintiff") is also known as "Lee Richardson."

8. In 2016 the Plaintiff was in the United States Marine Corps ("Marine Corps") stationed in Maryland. The Plaintiff was living off-base in a home he was renting at 3355 Southern Avenue, Suitland¹, Maryland ("Suitland").

9. In June 2016 Plaintiff paid Defendant Hayley Robinson ("Robinson") and her former boyfriend Justus Kepel ("Kepel") to travel from Bellingham, Washington to Suitland for a modeling photo shoot. Robinson is also known as Ireland Rose and/or Ireland Rose Marie.

10. On July 3, 2016 model Kiersten Alexandra Klag ("Klag"), Robinson and Kepel were at Plaintiff's home in Suitland.

11. On July 11, 2016 Klag went to the Prince George's County Police Department to report that the Plaintiff sexually assaulted her on the night of July 3, 2016. Defendant and Kepel accompanied Klag when she reported the assault and were interviewed by the police. The Prince George's County Police Department referred the matter to the Naval Criminal Investigative Service ("NCIS").²

12. On May 1, 2017 Plaintiff's commanding officer advised him that he was recommending Plaintiff be discharged from the Marine Corps.

¹Suitland is an unincorporated community in Prince George's County, Maryland, approximately one mile southeast of Washington, D.C. As of the 2010 census the population was 25,825.

² NCIS is the civilian federal law enforcement agency within the Department of Navy that investigates felony-level crimes involving active-duty members serving in the Navy and the Marine Corps, including cases on and off military installations in the U.S. and around the world.

1 13. On May 31, 2017 the Marine Corps appointed an Administrative Discharge Board
2 (“Discharge Board”) to consider the charges stemming from the NCIS investigation. The
3 Discharge Board scheduled a hearing for June 22, 2017. The Plaintiff was represented by legal
4 counsel. Robinson and Kepel testified at the hearing.

5 14. On July 17, 2017 the Discharge Board found “by majority vote that the
6 preponderance of the evidence” proves the acts alleged in “Articles 92 & 120” and recommended
7 Plaintiff’s be discharged from the Marine Corps under, “other than honorable” conditions.

8 15. On June 14, 2018 Plaintiff filed a certified complaint against Robinson and Kepel in
9 the United States District Court for the Western District of Washington at Seattle (“District
10 Court”), case number 18-cv-00862-BAT. Plaintiff alleges in the complaint that Klag’s sexual
11 assault allegations given to the police were false and that the accounts Robinson and Kepel gave
12 to the police and NCIS were false.

13 16. On July 23, 2018 Plaintiff was discharged from the Marine Corps. His “DD-214” of
14 the same date identifies Plaintiff’s character of service as “OTHER THAN HONORABLE
15 CONDITIONS” and the narrative reason for the discharge is “MISCONDUCT (SERIOUS
16 OFFENSE).

17 17. On May 7, 2019 Robinson filed chapter 7 bankruptcy, listing the Plaintiff’s claim as
18 disputed. Robinson’s bankruptcy stayed the District Court proceeding.

19 18. On August 20, 2019 Plaintiff filed an adversary complaint alleging Robinson’s
20 conduct caused his termination from the military, loss of income, pension, benefits, and loss of
21 future income exceeding \$1,500,000. Plaintiff alleges his claim against Robinson is not
22 dischargeable under 11 U.S.C. § 523(a)(6).

23 19. After being discharged Plaintiff applied to change the character of service on his DD-
24 214. On January 28, 2020 the military issued a revised DD-214 changing Plaintiff’s character of
25 service from OTH to “GENERAL (UNDER HONORABLE CONDITIONS). The narrative
26 reason for the discharge remains MISCONDUCT (SERIOUS OFFENSE) with a corresponding
27 separation code of GKQ1 and reentry code of RE-4.
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1 20. On March 4, 2020 Plaintiff filed a second complaint against Robinson in the United
2 States District Court for the Western District of Washington at Seattle (“District Court”), case
3 number 20-cv-00356-JLR.

4 IV. ISSUES OF LAW

5 The following are the issues of law to be determined by the Court.

6 1. Did statements Defendant made about Plaintiff to the police, NCIS, on social media,
7 and otherwise amount to defamation and intentional infliction of emotional distress?

8 2. Should a judgment of damages be entered in favor of Plaintiff against Defendant that
9 is nondischargeable under 11 U.S.C. § 523(a)(6)?

10 V. EXPERT WITNESSES

11 Neither Plaintiff nor Defendant will present testimony of expert witnesses.

12 VI. OTHER WITNESSES

13 PLAINTIFF:

14 1. Eric Franklin 7515 Essex Ave, Springfield VA 22150-4138 (703) 869-2074.

15 Witness is expected to testify as to his knowledge, observations, actions and
16 communications regarding the subject matter of this litigation.

17 2. Caitriona Hogan 7515 Essex Ave, Springfield VA 22150-4138 (646) 925-
18 4497). Witness is expected to testify as to her knowledge, observations, actions
19 and communications regarding the subject matter of this litigation.

20 3. Plaintiff Oscar Olive, IV. Witness is expected to testify as to his knowledge,
21 observations, actions and communications regarding the subject matter of this
22 litigation.

23 4. Hayley Marie Robinson. Witness is expected to testify as to her knowledge,
24 observations, actions and communications regarding the subject matter of this
25 litigation.

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DEFENDANT:

Hayley Marie Robinson. c/o Steven Hathaway, Attorney, 3811 Consolidation Ave., Bellingham, WA 98227, (360) 676-0529. Witness is expected to testify as to her knowledge, observations, actions and communications regarding the subject matter of this litigation.

VII. EXHIBITS

| Ex. # | Description | Admissibility Stipulated | Authenticity Stipulated, Admissibility Disputed | Authenticity And Admissibility Disputed |
|-------|---|-----------------------------|--|--|
| P 1 | First Amended Complaint <i>Olive v. Robinson, et al.</i> Washington District Court case No. 18-cv-00862- BAT. | X | | |
| P 2 | Order on sanctions, Discovery. Washington District Court case No. 18- cv-00862-BAT. | | X | |
| P 3 | ORDER GRANTING IN PART AND DENYING IN PART PLAINTIFF'S MOTION FOR DEFAULT JUDGMENT <i>Olive v. Robinson, et al.</i> Washington District Court case No. 18-cv-00862- BAT (Filed October 1, 2019). | | X | |
| P 4 | Adversary Complaint (Case No. 19-01105- MLB) | X | | |
| P 5 | Defendant ROBINSON'S Answer to Adversary Complaint Case No. 19- 01105-MLB | X | | |
| P 6 | DD-214 (January 2020) Upgraded Discharge | X | | |
| P 7 | July 13, 2016 ROBINSON Facebook | | | X |

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| | post video. | | | |
| P 8 | November 1, 2016 Text Message ROBINSON to OLIVE | | | X |
| P 9 | November 2, 2016 ROBINSON Facebook post. | | | X |
| P 10 | November 4, 2016 ROBINSON phone conversation | | | X |
| P 11 | July 15, 2017 Facebook Post KLAG. | | | X |
| P 12 | Documents: Damages, Medical Records | | | X |
| P 13 | Documents: Loss of Business Income | | | X |
| P 14 | July 10, 2020 DD-293 Application for Review of Discharge | | | X |

| Ex. # | Description | Admissibility Stipulated | Authenticity Stipulated, Admissibility Disputed | Authenticity And Admissibility Disputed |
|--------------|---|---------------------------------|--|--|
| D-1 | Letter dated May 1, 2017 Notification of Discharge Proceeding. | | | X |
| D-2 | Letter dated May 31, 2017 Notice of Appointment of Admin Discharge Board. | | | X |
| D-3 | July 17, 2017 Administrative Discharge Board Report: Findings and Recommendations in the Case of Staff Sergeant Oscar L. Olive IV 1275292407/5512 USMC. | | | X |
| D-4 | Second Endorsement on Administrative Discharge Board Report dated July 17, 2017. | | | X |
| D-5 | DD-214 dated July 23, 2018. | | | X |
| D-6 | DD-214 dated January 28, 2020. | | | X |
| D-7 | May 15, 2017 Request for Legal Services. | | | X |

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| D-8 | November 21, 2019 letter advising of final decision regarding request for designation change. | | | X |
| D-9 | January 24, 2018 Chronological Record of Medical Care | | | X |
| D-10 | Internet profile of Lee Richardson located at https://www.picuki.com/profile/leerichardsonphoto . | | | X |
| D-11 | June 14, 2018 complaint filed in the United States District Court for the Western District of Washington at Seattle, Case No. 18-cv-00862-BAT. | | | X |
| D-12 | March 4, 2020 complaint filed in the United States District Court for the Western District of Washington at Seattle, Case No. 20-cv-00356-JLR. | | | X |

VII. ACTION BY THE COURT

This case is schedule for trial before the Honorable Judge Marc L. Barreca on November 16, 2020 at 9:30 a.m. to be held by video at the United States Federal Courthouse, 700 Stewart Street, Courtroom 7106, Seattle, Washington 98101.

///END OF ORDER///

PRETRIAL ORDER

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1 Presented by:
2

3 /s/ Steven C. Hathaway

4 Steven C. Hathaway, Attorney for Defendant

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